

State Office of Administrative Hearings



Cathleen Parsley
Chief Administrative Law Judge

November 30, 2010

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TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

Les Trobman, General Counsel
Texas Commission on Environmental Quality
P.O. Box 13087
Austin Texas 78711-3087

VIA FACSIMILE 512/239-5533

Re: SOAH Docket No. 582-10-3449; TCEQ Docket No. 2009-1612-PST-E;
Executive Director of the Texas Commission on Environmental Quality v.
Earnest M. Teel

Dear Mr. Trobman:

On November 8, 2010, the Executive Director filed exceptions concerning the Proposal for Decision and Proposed Order issued in this case (the ED's Exceptions). As to section III of the ED's Exceptions (which concerns minor stylistic changes) I have no objection to the proposed revisions.


The remainder of the ED's Exceptions takes issue with my recommendation that no administrative penalty be assessed against the Respondent. Because I continue to believe that the assessment of an administrative penalty in this case would run counter to the legislative intent behind TEX. WATER CODE § 7.053(4) – *i.e.*, the requirement that the Commission consider "any other matters that justice may require" when considering whether to assess a penalty – I do not believe any changes should be made to the Proposal for Decision or Proposed Order as to this issue.

I did not receive any exceptions or replies from the Respondent, Mr. Earnest Teel, or from the Office of Public Interest Counsel.

SOAH DOCKET NO. 582-10-3449
TCEQ DOCKET NO. 2009-1612-PST-E
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Please let me know if you need any additional information.

Sincerely,


HUNTER BURKHALTER
ADMINISTRATIVE LAW JUDGE/MEDIATOR
STATE OFFICE OF ADMINISTRATIVE HEARINGS

HB/slc

xc:

Blas J. Coy Jr. Office of Public Interest Counsel, P.O. Box 13087, MC-103, Austin, TX 78711 VIA FACSIMILE 512/239-6377

Marshall Coover, TCEQ, P.O. Box 13087 Austin, TX 78711, VIA FACSIMILE 512/239-3434

Earnest M. Teel, C/O Lori Teel Harris, 17 South Holland Rd, Mansfield, TX 76063 VIA REGULAR MAIL

STATE OFFICE OF ADMINISTRATIVE HEARINGS**AUSTIN OFFICE****300 West 15th Street Suite 502****Austin, Texas 78701****Phone: (512) 475-4993****Fax: (512) 322-2061****SERVICE LIST****AGENCY:** Environmental Quality, Texas Commission on (TCEQ)**STYLE/CASE:** EARNEST M. TEEL**SOAH DOCKET NUMBER:** 582-10-3449**REFERRING AGENCY CASE:** 2009-1612-PST-E

**STATE OFFICE OF ADMINISTRATIVE
HEARINGS**

**ADMINISTRATIVE LAW JUDGE
ALJ HUNTER BURKHALTER**

REPRESENTATIVE / ADDRESS**PARTIES**

BLAS J. COY, JR.
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
OFFICE OF PUBLIC INTEREST COUNSEL
P.O. BOX 13087, MC-103
AUSTIN, TX 78711-3087
(512) 239-6363 (PH)
(512) 239-6377 (FAX)
bcoy@tceq.state.tx.us

TCEQ PUBLIC INTEREST COUNSEL

MARSHALL COOVER
STAFF ATTORNEY
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
P. O. BOX 13087
AUSTIN, TX 78711-3087
(512) 239-0620 (PH)
(512) 239-3434 (FAX)
mcoover@tceq.state.tx.us

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

EARNEST M. TEEL
C/O LORI TEEL HARRIS
17 SOUTH HOLLAND RD.
MANSFIELD, TX 76063

EARNEST M. TEEL

xc: Docket Clerk, State Office of Administrative Hearings

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STATE OFFICE OF ADMINISTRATIVE HEARINGS

AUSTIN OFFICE
300 West 15th Street Suite 502
Austin, Texas 78701
Phone: (512) 475-4993
Fax: (512) 322-2061

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DOCKET NUMBER:

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JUDGE HUNTER BURKHALTER

FAX TO:

FAX TO:

MARSHALL COOVER (TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY)

(512) 239-3434

BLAS J. COY, JR. (TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY)

(512) 239-6377

EARNEST M. TEEL

VIA REGULAR MAIL

Kennedy Court Reporting Services

(512) 474-6704

TCEQ Docket Clerk, Fax Number 512/239-3311

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